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101st CONGRESS
2d Session

SENATE

REPORT
101-375

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

JULY 17 (legislative day, JULY 10), 1990.—Ordered to be printed

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Mr. BURDICK, from the Committee on Environment and Public Works, submitted the following

REPORT

[To accompany S. 1731]

The Committee on Environment and Public Works, to which was referred the bill (S. 1731) to provide for the creation, restoration, protection, enhancement, and conservation of coastal wetlands, and to conserve North American wetland ecosystems and waterfowl and other migratory birds and fish and wildlife that depend upon such habitats, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

GENERAL STATEMENT

The objectives of the legislation are to restore rapidly eroding coastal wetlands in Louisiana and conserve other coastal and inland wetlands in North America. The bill requires preparation of a coastal wetlands restoration plan by a new Federal-State task force that identifies projects and activities in order of priority based on their cost-effectiveness in restoring Louisiana coastal wetlands. Projects identified by the Task Force in preparation of the restoration plan are to be placed on a priority project list. Prior to completion of the restoration plan, the Task Force must identify and produce a priority list of short-term projects and activities. The bill encourages the Governor of Louisiana to enter into an agreement with the Secretary of the Army and the EPA Administrator that would require the State of Louisiana to develop and implement a coastal wetlands conservation plan. The goal of this plan must be to achieve no net loss of wetlands in the coastal area of Louisiana as a result of development activities. The bill authorizes

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the Secretary of the Interior to make matching grants to any coastal State to acquire, restore, manage, or enhance coastal wetlands. Section 9 of the bill facilitates environmental restoration activities by requiring the Secretary of the Army to give these activities consideration which is equal to that given to projects that benefit navigation and flood control.

PURPOSE AND BACKGROUND

Coastal Louisiana wetlands

The coastal wetlands of Louisiana consist of salt marshes, freshwater marshes, and cypress swamps. Forty percent of the Nation's coastal wetlands are located in the State of Louisiana. These wetlands support over 30 percent of the Nation's fisheries and shell fisheries harvest and 40 percent of its fur harvest; buffer destructive tidal surges caused by hurricanes and storms and reduce flood damages; trap and hold fresh water for coastal communities and retard salt water intrusion into these coastal freshwater supplies; and provide wintering habitat for two-thirds of the 6 million ducks and geese in the Mississippi Flyway.

Since 1900, Louisiana has lost more than 1.1 million acres of coastal wetlands. Eighty percent of the Nation's present coastal wetlands loss is occurring in Louisiana. The estimated annual rate of coastal wetlands loss in that State approaches 60 square miles per year. If the present loss rate remains unchanged, Louisiana will lose 2.4 million acres, an area one and one-third times greater than the State of Rhode Island, by the year 2040.

There have been four major changes in the course of the Mississippi River during the past 7,000 years. The river changed course each time its route to the Gulf of Mexico became long, sinuous, and inefficient. With each change in course to a shorter, more efficient route, the river built a new delta of sediment in the Gulf which subsequently became wetlands. Once the wetlands of a delta area no longer fed by riverine sediment, they slowly break up and subside as the soft sediments compact.

Until 1900, natural subsidence (or sinking of the coast) and wetlands loss in deltaic areas abandoned by the river were more than offset, on average, by new sediment deposits and wetlands creation in the active delta. Consequently, for 5,000 years prior to this century there was a net overall gain in wetland area on the Louisiana coast. Human activities in the 20th century, however, have reversed this trend. The current high rate of wetlands loss is a result of the great decrease in sediment deposition while subsidence has remained constant.

The decline in sediment accretion rates and the associated increase in net wetland loss rates are human-induced. The principal factor responsible for these trends is the dramatic reduction in inputs of Mississippi River sediments in the coastal zone. Upstream reservoirs, bank protection measures and agricultural conservation measures throughout the Mississippi River and its tributaries have significantly reduced the amount of sediment carried to the Gulf. More importantly, little of the sediment that is carried to the Gulf stays in the coastal zone.

The Army Corps of Engineers, at the direction of Congress and with the support of the State of Louisiana, has managed the Mississippi River primarily for navigation and flood control. The navigation structures built along the River have facilitated domestic and international commerce, and the levees and jetties built by the Corps have been very successful in keeping the river flowing within the main river channel in order to prevent flooding and to reduce maintenance dredging costs. Unfortunately, these river control structures also have transported wetland-building sediments to the edge of the outer continental shelf where they are discharged into deep waters of the Gulf. Starved of these sediments, soft wetland soils subside and erode.

A second human-induced cause of coastal wetlands erosion are the direct and indirect effects from construction of more than 10,000 miles of navigation and access canals. The vast majority of these canals have been built to facilitate oil and gas exploration and development. A June 1990, EPA Inspector General Special Review Report entitled "EPA Is Not Adequately Controlling The Negative Impacts of Oil and Gas Activities on Louisiana's Coastal Wetlands" states that according to scientists' estimates, 60 percent to 90 percent of Louisiana coastal wetlands loss is due to oil and gas production activities.

The indirect loss of wetlands from canals is more serious than the direct loss and results from alterations in hydrology, loss of water flow over the marsh, increased intrusion of salt water into freshwater areas, impoundment of marshes and acceleration of subsidence. A 1988 study by the Interior Department's Mineral Management Service concluded that, between 1955 and 1978, 16 percent of the total coastal wetlands loss in Louisiana was due directly to the canals and associated spoil banks, and 14 to 43 percent of such loss was indirectly attributable to the canals. In 1987, the Louisiana Coastal Management Division calculated that the direct and indirect loss of wetlands from canal construction was between 450 and 900 acres.

The Corps is working on the design of three structures (Caernarvon, Davis Pond, and Bonnet Carre) to divert freshwater from the Mississippi River to the coastal zone. The Corps estimates that these projects would reduce wetlands loss by about 110,000 acres over the next 50 years. These diversions, however, are intended only to protect existing wetlands by preventing salt water intrusion and not to create wetlands by diverting and depositing sediment. Additional diversions to introduce both freshwater and sediment into the coastal zone to preserve and rebuild wetlands have been recommended by many experts.

Other approaches to protecting and restoring coastal wetlands include restoring and maintaining barrier islands; using dredged sediment from navigation channels to build suitable substrate; planting marsh vegetation on exposed soils; and regulation of development activities.

Other coastal and inland wetlands

From the mid-1950's to the mid-1970's, nine million acres of wetlands were drained, filled and cleared in the 48 contiguous States. Less than half of the original 200 million acres remain, and the de-

struction continues today at a rate of 450,000 acres per year—an area 12 times the size of the District of Columbia.

Nationwide, coastal and inland wetlands provide essential and significant habitat for fish, shellfish and other wildlife of commercial, recreational, scientific and aesthetic value, and for endangered and threatened species of animals and plants. These wetlands provide substantial flood and storm control values and can obviate the need for expensive man-made control measures. They make a significant contribution to water quality by recharging groundwater, filtering surface runoff, and treating waste, and they provide natural areas important for recreational and aesthetic purposes.

Legislative background

S. 1731 was introduced on October 5, 1989. Titles I and III of the bill, as introduced, modify and combine provisions in S. 630, the Louisiana Coastal Wetlands Conservation and Restoration Act, and Senate amendment 229 to S. 406. The Subcommittee on Environmental Protection held a hearing on S. 630 on August 2, 1989. The Energy and Natural Resources Committee held a hearing on Senate amendment 229 on July 24, 1989.

Title II of S. 1731 incorporated the provisions of S. 804, the North American Wetlands Conservation Act, which was signed into law on December 13, 1989 (P.L. 101-223).

S. 1731 was ordered reported with an amendment in the nature of a substitute. The substitute amendment drops the previously-enacted North American Wetlands Conservation Act provisions in Title II and makes a number of other modifications to the introduced bill to address the concerns of the EPA, Corps of Engineers and Fish and Wildlife Service.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

The short title of the reported bill is the "Coastal Wetlands Planning, Protection, and Restoration Act."

Section 2. Findings

Section 2 of the reported bill outlines the environmental and economic benefits of wetlands; the high proportion of the nation's coastal wetlands located in Louisiana; the rapid and disproportionate rate of loss of coastal wetlands in Louisiana; the causes of this loss; the national benefits that have resulted from the development of the Mississippi River; and the need for a plan to restore and conserve the coastal wetlands of Louisiana.

Section 3. Purpose

The purposes of the reported bill are to (1) provide for the planning, identification and implementation of priority coastal wetlands restoration projects in Louisiana; (2) encourage the State of Louisiana to develop a plan with the goal of achieving no net loss of coastal wetlands as a result of future development activities; and (3) provide grants to coastal states to implement coastal wetlands conservation projects.

Section 4. Definitions

The term "development activities" is defined as any activity, including discharges of dredged or fill material, which results directly in a more than de minimis change in the hydrologic regime, bottom contour, or the type, distribution or diversity of hydrophytic vegetation, or which impairs the flow, reach or circulation of surface water within wetlands or other waters.

The term "coastal wetlands restoration project" means a technically feasible project to create, restore, protect, or enhance coastal wetlands through a variety of means that the Task Force finds will significantly contribute to the long-term restoration or protection of Louisiana's coastal wetlands. The term "coastal wetlands restoration project" includes any activity authorized under this legislation or under any other provision of law, to create, restore, protect or enhance coastal wetlands, including but not limited to, new projects, completion or expansion of existing or on-going projects, individual phases, portions or components of projects and operation, maintenance or rehabilitation of completed projects. Consequently, the term "project" as used in this bill has a distinct and broader meaning than the term has in the context of water resource development projects.

A "coastal wetlands restoration project" is a distinct type of project that is to be developed in accordance with this Act and its procedures, which are intended to expedite analysis and adoption of a project. The use of the term "project" in no way implies that the same procedures that are used to analyze and approve a navigation or flood control project are to be used with respect to analysis and approval of a "coastal wetlands restoration project."

Examples of a coastal wetlands restoration project include a research project to develop new types of wetlands vegetation; restoration or maintenance or barrier islands through pumping of sand and planting of vegetation; deposit of dredged sediment from navigation channels to build suitable substrate; installation of water control structures; completion of the Davis Pond freshwater diversion; construction of a new major sediment diversion; or the operation, maintenance or rehabilitation of a completed project, such as the Caernarvon freshwater diversion.

The term "coastal wetlands restoration project" means acquisition, restoration, management or enhancement of coastal wetlands. The purpose of such projects is not only the long-term conservation of fish and wildlife but also the protection of water quality and hydrology.

The term "Task Force" defines a new federal-state entity, the Louisiana Coastal Wetlands Conservation and Restoration Task Force, that is created by the bill. The Task Force is responsible for annual identification of priority coastal wetlands restoration projects to receive funding and for development of a long-term restoration plan for coastal Louisiana. The Task Force consists of the Secretary of the Army, EPA Administrator, Governor of Louisiana, and Secretaries of Agriculture, Commerce and the Interior. The Secretary of the Army is designated as the Task Force's chairman.

Section 5. Priority Louisiana coastal wetlands restoration projects

Under section 5(a), the Secretary of the Army is charged with convening the Task Force immediately after enactment for the purpose of identifying and preparing a list of coastal wetlands restoration projects in order of priority, based on the cost effectiveness of such projects in creating, restoring, protecting or enhancing coastal wetlands. Prior to completion of the restoration plan, the list should include projects that can be implemented right away, such as simple diversions, planting of vegetation, installation of water control structures or use of dredged material from rivers and waterways during routine navigation maintenance activities. Additionally, in identifying projects and preparing the list, appropriate consideration is to be given to small-scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration.

The list must be transmitted to the Congress within one year after enactment and annually thereafter as part of the President's budget submission. If it is necessary to ensure transmittal of the list to Congress on a timely basis each year, the Task Force is directed to produce the list by a majority vote of those members present and voting. However, no project may be placed on the list without the concurrence of the lead agency responsible for carrying it out. The bill requires that up to $5 million annually be made available from a wetlands trust fund (which would have to be established under separate legislation) to assist the federal agency heads and the Governor in preparing preliminary assessments, inventories, reconnaissance or engineering studies, and preliminary design work. Prior to the completion of the plan required by subsection (b) of section 5, the list shall include only projects that can be substantially completed within five years. Such projects may consist of a phase, portion or component of an ongoing project.

Subsection (b) of section 5 requires the Task Force to prepare a plan within three years to identify coastal wetlands restoration projects in Louisiana in order of priority, based on their cost effectiveness in creating, restoring, protecting or enhancing wetlands. The purpose of the plan is to develop a comprehensive approach to prevent the loss of coastal wetlands in Louisiana and coordinate and integrate coastal wetlands restoration projects in a manner that will ensure the long-term conservation of Louisiana coastal wetlands. The bill directs the Task Force to integrate the restoration plan with on-going studies and planning efforts, including the "Louisiana Comphrehensive Coastal Wetlands Feasibility Study" conducted by the Secretary of the Army and the "Coastal Wetlands Conservation and Restoration Plan" developed by the State of Louisiana. Projects identified in the plan should complement each other to minimize coastal wetlands loss and maximize wetlands restoration, protection, enhancement and creation throughout the coastal area. The plan must be submitted to the Congress and becomes effective ninety days after the date of its submission. Within three years, the Task Force must report to the Congress with a scientific evaluation of the effectiveness of the coastal wetlands restoration projects.

Subsection (c) modifies existing law with respect to cases in which a determination of a coastal wetlands restoration project's benefits and costs is required. Under those circumstances, the provision states that the net ecological, aesthetic and cultural benefits, together with the economic benefits, are deemed to exceed the costs of any coastal wetlands restoration project within the State of Louisiana which the Task Force finds to contribute significantly to wetlands restoration. Calculation of a benefit to cost ratio has been a major obstacle to wetlands restoration, protection, enhancement and creation because project costs are easily determined, whereas project benefits are difficult or impossible to quantify. Subsection 5(c) removes this obstacle. Moreover, many projects developed pursuant to this Act will not require calculation of a benefit to cost ratio. Instead, projects generally are to be evaluated in terms of cost effectiveness in restoring, protecting, enhancing or creating coastal wetlands.

Subsection (d) requires the Secretary of the Army to ensure that implementation, maintenance, modification or rehabilitation of navigation, flood control or irrigation projects under other authorities is consistent with the purposes of the coastal restoration plan. This provision is intended to ensure that the Corps of Engineers does not proceed with navigation, flood control or irrigation projects that would accelerate the loss of coastal wetlands, retard the restoration of coastal wetlands or jeopardize the long-term conservation of such wetlands.

Subsection (e) directs the Army Secretary to allocate available funds among the designated lead agency members of the Task Force to carry out coastal restoration projects according to the priorities set forth in the project list.

Under subsection (f), the Federal share for wetlands restoration project funding is set at 75 percent. If the State of Louisiana develops a Coastal Wetlands Conservation Plan pursuant to section 6, the Federal share for restoration project funding is increased to 85 percent. The Federal share reverts to 75 percent if the Army Secretary and EPA Administrator determine that the State is not taking reasonable steps to implement and administer the conservation plan. The State share must consist of a cash contribution of at least five percent of project cost. The State may provide the balance of its share through land, easements, or rights-of-way. The State shall determine the form of the balance of the State share in excess of the 5 percent cash minimum. However, the lead Task Force member is to determine the appropriateness of the particular non-cash contribution.

Section 6. Louisiana coastal wetlands conservation planning

Subsection (a) of section 6 provides that, at the request of the Governor, the Army Secretary and EPA Administrator are directed to enter into an agreement to assist the State of Louisiana in the development of a Coastal Wetlands Conservation Plan. The State is required to designate a single State agency to develop the plan. The plan must be completed within three years from the date of signing the agreement. The agreement obligates the state to submit a plan for approval by the Secretary and the Administrator and to implement the plan upon such approval. Once the agreement is

signed, the state becomes eligible for $2.5 million annually (not to exceed $10 million in total), from any wetlands fund established to carry out the act, to assist in the development of the conservation plan.

Subsection (b) of section 6 states that the conservation plan developed by the State of Louisiana must have a goal of achieving no net loss of wetlands in the coastal areas of Louisiana as a result of development activities. The goal of the plan applies to development activities initiated subsequent to Federal approval of the plan and is exclusive of any wetlands gains achieved through restoration projects carried out pursuant to section 5. In addition, the no net loss goal is not intended to require compensation for direct or indirect losses attributable to causes of coastal wetlands loss other than "development activities."

Subsection (c) specifies that the conservation plan developed by the State of Louisiana must include identification of measures that the state will take using existing Federal authority and existing or modified state authority to achieve a goal of no net loss of wetlands as a result of development activities. The State may achieve the no net loss goal by building on existing federal programs with any combination of State acquisition, regulation and use of incentives. The plan also must include a system to account for gains and losses of wetlands for the purposes of evaluating the degree to which the no net loss goal has been attained. The State must provide satisfactory assurances that it will have adequate personnel, funding and authority to implement the plan.

Under subsection (d) of section 6, the Army Secretary and the EPA Administrator must approve or disapprove the conservation plan within 180 days following its submission. Approval is contingent upon a determination by the Secretary and the Administrator that the state has adequate authority to fully implement the plan and that the plan complies with the requirements of this section. If the Secretary and the Administrator find that the plan as submitted, does not comply with these requirements, they are required to explain why it is not in compliance and how it should be modified in order to bring it into compliance. Following its approval the conservation plan must be implemented by the State.

The Army Secretary and EPA Administrator must report to the Congress wtihin 180 days on the status of the plan and at 24-month intervals thereafter on its status and its effectiveness in meeting the goal set forth in subsection (b). The Army Secretary and EPA Administrator are directed to consult with the U.S. Fish and Wildlife Service Director in making these reports to Congress.

Section 7. National coastal wetlands conservation grants

Section 7 authorizes the Secretary of the Interior to make matching grants to any coastal State to carry out coastal wetlands conservation projects. In awarding such grants, the Interior Secretary must give priority to coastal wetlands conservation projects that are (1) consistent with the National Wetlands Priority Conservation Plan developed under section 301 of the Emergency Wetlands Resources Act and (2) in coastal States that have established dedicated funding for programs to acquire coastal wetlands, natural areas and open spaces.

The Federal share of coastal conservation grants to States may not exceed 50 percent of the cost of coastal wetlands conservation projects. The Federal share may be increased up to 75 percent, however, if a coastal State has established a trust fund, from which the principal is not spent, for the purpose of acquiring coastal wetlands, other natural areas or open spaces.

Under subsection (f) of section 7, the Secretary of the Interior is authorized to make $2.5 million available from a wetlands trust fund to the U.S. Fish and Wildlife Service's National Wetlands Inventory to update and digitize wetlands maps in Texas and to conduct an assessment of the status, trends and condition of wetlands in the State of Texas.

Section 8. Authorized uses of wetlands fund

Section 8 allocates, as provided in appropriations Acts, the amount of funding deposited in a wetlands fund, if such a fund is established in separate legislation, to carry out the provisions of this legislation.

Subsection (a) allocates 75 percent of any wetlands fund deposits, not to exceed $75 million, to carry out coastal wetlands restoration projects. Of these amounts, up to $5 million is available annually to assist the Task Force in the preparation of its priority coastal wetlands restoration project list and restoration plan, and up to $2.5 million annually, not to exceed $10 million in total, is available to assist the State of Louisiana in development of its Coastal Wetlands Conservation Plan.

Subsection (b) allocates 10 percent of any wetlands fund deposits, not to exceed $10 million annually, to the Secretary of the Interior to make matching grants to states to carry out coastal wetlands conservation projects. Of this amount, up to $2.5 million is made available to conduct an assessment of the status, trends and conditions of Texas coastal wetlands.

Subsection (c) allocates 15 percent of any wetlands fund deposits, not to exceed $15 million annually, to the Secretary of the Interior for allocation under the North American Wetlands Conservation Act (P.L. 101-223).

Subsections (a), (b) and (c) essentially establish separate accounts within a wetlands trust fund to carry out distinct and separate purposes. Consequently, if funds deposited within an account during a given fiscal year are not used during that year for the purposes for which they were allocated in each case, then the unused balance is to be carried over within that account until they are expended.

Section 9. General provisions

Subsection (a) of section 9 authorizes the Secretary of the Army to carry out projects to preserve, restore and enhance aquatic and associated ecosystems, including coastal wetlands protection, restoration and creation projects, and is directed in carrying out such projects to give them equal consideration with projects relating to navigation, irrigation and flood control. This provision has the broad purpose of directing the Army Corps of Engineers to modify its priorities in a manner that will result in greater development and implementation of environmentally-beneficial projects by that agency.

The Army Secretary also is directed to study the feasibility of modifying the operation of existing navigation and flood control projects to allow for an increase in the share of the Mississippi River flows and sediment sent down the Atchafalaya River for purposes of land building and wetlands nourishment.

HEARINGS

The Subcommittee on Environmental Protection held a hearing on S. 630, the Louisiana Coastal Wetlands Conservation and Restoration Act, on August 2, 1989. The following witnesses testified at that hearing: representatives of the Department of the Interior, the Environmental Protection Agency, the Department of the Army, the State of Louisiana, the Gulf Intracoastal Canal Association, the Louisiana Farm Bureau, the Coastal Conservation Association, the Coalition to Restore Coastal Louisiana, the National Wildlife Federation, the Louisiana Landowners Association and the Environmental Defense Fund.

In response to testimony received at that hearing and additional comments provided by affected Federal agencies and the State of Louisiana, S. 630 was modified and introduced as S. 1731. S. 1731 also incorporated provisions and concepts in Senate amendment 229 to S. 406. The Energy and Natural Resources Committee held a hearing on Senate amendment 229 on July 24, 1989.

DEPARTMENTAL REPORTS

The Committee on Environmental and Public Works received the following department report:

DEPARTMENT OF THE ARMY,
Washington, DC, 23 May 1990.

Hon. QUENTIN N. BURDICK,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of the Army on S. 1731, 101st Congress, a bill "To provide for the creation, restoration, enhancement, and conservation of coastal wetlands, and to conserve North American wetland ecosystems and waterfowl and the other migratory birds and fish and wildlife that depend upon such habitats, and for other purposes."

The purpose of the bill is as stated in its title.

The principal objective of this bill is to protect and preserve our wetlands, and the Department of the Army strongly supports that basic objective. To the extent that there is to be a Federal role in such an effort, we believe the Army Corps of Engineers is well suited to undertake a role in evaluating, designing, and constructing wetlands projects. However, we are concerned that S. 1731 does not specify the source of funds that would be used to address the wetlands activities of the bill. Regardless of its substantive provisions, we must oppose the bill unless this funding issue is resolved satisfactorily. There are certain other aspects of S. 1731 which we believe are either unnecessary or undesirable. All of our concerns are discussed below.

The comprehensive and interagency review of Louisiana's wetlands and potential remedial activities as called for in sections 105 and 108 are already underway in the form of the "Louisiana Comprehensive Coastal Wetlands Feasibility Study". The Army Corps of Engineers is conducting this effort in close cooperation with the State of Louisiana and other Federal agencies. Any new legislation in this regard is therefore not necessary. Furthermore, adoption of these sections might force a premature decision on the appropriate allocation of potentially limited funding available for new project activities.

In addition, funds for the initiatives to be undertaken pursuant to S. 1731 are to be provided in large part by the "Wetlands Trust Fund". The source of revenues to fuel the Trust Fund is not specified, but presumably it involves new or increased taxes, such as an increase in revenues related to oil and gas extractions from the Outer Continental Shelf. We cannot support this provision or the bill without the source of receipts being clearly identified. Further, any new mission to be supported through Army civil works program funds might adversely affect the Federal Government's ability to provide needed flood control and navigation services or to carry out existing Section 404 and Section 10 regulatory responsibilities.

Section 105(d) provides that, under certain circumstances, economic benefits shall be deemed to exceed the costs of any coastal wetlands restoration project within the State of Louisiana. While we do not object to this provision, and it would not affect our economic analyses, care would have to be taken to ensure that a Congressional declaration that benefits exceed costs would not be interpreted as removing any constraint on expenditures.

With respect to cost sharing, we believe that the fiscal constraints facing the Federal budget and the need for consistency with other Corps activities must be considered. Therefore, the first costs for any coastal wetlands restoration project undertaken pursuant to S. 1731 should be seventy-five percent Federal cost and twenty-five percent non-Federal. In addition, non-Federal project sponsors must provide all of the costs of operating, maintaining, and rehabilitating the completed projects.

We have no objection to Section 301; however, appropriate cost sharing for studies and projects must apply. In addition, Section 301 raises the same caution expressed by us in a preceding paragraph regarding the potential use of scarce funding for new flood control and navigation needs for wetlands projects.

As a technical matter, we note that S. 1731 is silent on the issue of land acquisition with regard to coastal wetlands restoration projects, although the cost sharing delineated in section 107(c) appears to contemplate that some acquisition of real estate interests may be necessary. If this is indeed the case, the bill should be amended to reflect that the State of Louisiana has the responsibility to acquire the necessary property interests. In addition, if title to any Federally owned or acquired land is to be transferred to the State, the bill should be further amended to provide for such a transfer.

Finally, the title of Section 301 should be modified to read "Additional Authority for the Secretary of the Army". The first sentence

of Sec. 301(a) should be modified to read, "The Secretary of the Army is authorized to carry out projects for the protection, restoration, and creation of vegetated wetlands", and the second sentence should be modified to read "Secretary of the Army" as well. (*See* p. 49 of the bill, lines 21 through 26.) These modifications are consistent with the convention established by the Congress in the Water Resources Development Act of 1986.

In closing, I must restate that we oppose the bill until the receipt source of the Wetlands Trust Fund is identified and the issue satisfactorily resolved with the Administration.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report for the consideration of the Committee.

An identical letter is being sent to Senator John H. Chafee.

Sincerely,

G. EDWARD DICKEY
(for Robert W. Page,
Assistant Secretary of the Army (Civil Works)).

ROLLCALL VOTES

Section 7(b) of rule XXVI of the Standing Rules of the Senate and the rules of the Committee on Environment and Public Works require that any rollcall votes taken during consideration of this bill be announced in this report.

The bill was ordered reported on June 23, 1990, by unanimous voice vote.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires each bill to contain a statement of the cost of such bill prepared by the Congressional Budget Office. That report follows:

U.S. CONGRESS
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 12, 1990.

Hon. QUENTIN N. BURDICK,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 1731, the Coastal Wetlands Planning, Protection and Restoration Act.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER,
Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 1731.
2. Bill title: Coastal Wetlands Planning, Protection and Restoration Act.

3. Bill status: As ordered reported by the Senate Committee on Environment and Public Works, June 12, 1990.

4. Bill purpose: S. 1731 would provide a framework for an extended federal role in wetlands preservation. In anticipation of future legislation to create and finance a coastal wetlands fund, the bill would mandate new state grant programs and other types of federal support. S. 1731 would not establish such a fund, but would specify the disposition of amounts that might be credited to one under other legislation. The bill would earmark up to $100 million per year from the fund for coastal wetlands programs, including conservation and restoration of Louisiana wetlands (75 percent), wetlands conservation grants to other coastal states (10 percent), and additional funding for the Department of the Interior's North American Wetlands Conservation program (15 percent).

In order to expedite restoration activities in Louisiana, Section 5 would specify advanced planning procedures to be initiated once the bill is enacted. Under this section, a Louisiana coastal wetlands task force would be convened by the U.S. Army Corps of Engineers to identify high-priority restoration projects and prepare a comprehensive long-term restoration plan. In the event that a wetlands fund is created, appropriations from that source could be used for task force planning activities, which would have to be completed within three years of this bill's enactment.

Finally, Section 9 of the bill would direct the Secretary of the Army to give equal consideration to wetlands projects in carrying out the agency's objectives. This section would also require the agency to study the feasibility of diverting additional sediment and water flows into the Atchafalaya River.

5. Estimated cost to the Federal Government: In the absence of legislation to create a new wetlands fund, the budget impact of S. 1731 would be limited to the following amounts:

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995
Estimated authorization level	8				
Estimated outlays	3	3	2		

The costs of this bill fall within budget function 300.

Basis of Estimate: For purposes of this estimate, CBO has assumed that S. 1731 will be enacted by early in fiscal year 1991. It is further assumed that entire amount estimated to be necessary for planning and investigation activities will be appropriated for that year. CBO estimates that these activities would cost about $8 million over the fiscal years 1991 through 1993, including $6 million for restoration planning in Louisiana and $2 million for the completion of the feasibility study required in Section 9.

For all other activities outlined in the bill, the only allowable source of financing would be the new wetlands fund. Because the $100 million annual authorization provided in Section 8 of the bill would not become effective unless other legislation is enacted, it has not been included in the above table.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: Deborah Reis.
10. Estimate approved by: C.G. Nuckols, for James L. Blum, Assistant Director for Budget Analysis.

REGULATORY IMPACT

Section 11(b) of rule XXVI of the Standing Rules of the Senate require the Committee to evaluate the regulatory impact of the reported bill.

It is not anticipated that this bill will impose any significant new regulatory burden.

CHANGES IN EXISTING LAW

No changes are made to existing law by S. 1731.

○